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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/728,390	12/05/2003	Nick Kakouras	2853-001	9237

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EXAMINER

LARSON, JUSTIN MATTHEW

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 09/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/728,390

Applicant(s)

KAKOURAS, NICK

Examiner

Justin M. Larson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 4/19/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Information Disclosure Statement***

1. The information disclosure statement (IDS) submitted on 4/19/04 is noted. The submission is in compliance with the provisions of 37 CFR 1.97 and 1.98. Accordingly, the examiner is considering the information disclosure statement.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 8-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 8 recites the limitation "said first strap" in lines 9-10. There is insufficient antecedent basis for this limitation in the claim.

Claim 12 recites the limitations "said first strap" and "said first and second straps" in lines 5 and 6, respectively. There is insufficient antecedent basis for these limitations in the claims.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

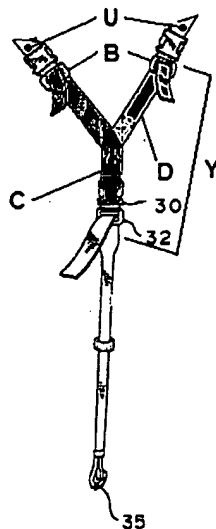
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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5. Claim 12 is rejected under 35 U.S.C. 102(b) as being anticipated by Gomez et al. (US 5,564,729 A).

Gomez et al. disclose a snowboard sling have two sling portions (U, below) to which a Y-strap (Y, below) is attached via adjustable buckles (B, below), which allow a user to adjust the effective length of the sling. The Y-strap attaches the two sling portions (U) to the snowboard via a mounting mechanism (35). The Y-strap of Gomez et al. is comprised of a first strap portion (C, below) and a secondary strap portion (D, below). The secondary strap portion is connected to a middle region of the first strap portion. The first strap portion has a clip (30 or 32) at its lower end for connecting to the mounting mechanism (35).

Examiner is providing the following figure, taken from Figure 4 of Gomez, in order to clarify the position set forth above:



The initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over that disclosed by Gomez et al. which is capable of being used in the

intended manner, i.e., to support a gun. There is no structure in Gomez et al. that would prohibit such functional intended use (see MPEP 2111).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martinez (US 5,282,558 A).

Regarding claims 1 and 4, Martinez discloses a gun sling comprising a first strap (14), said first strap including a first side of an attachment means (snaps 25), a second strap (23), said second strap including a second side of said attachment means (snap 27) positioned to selectively engage said first side of said attachment means, and means (16,17) for said first and second straps to engage an upper gun swivel and a lower gun swivel, wherein said first strap has a length adjustment means (21) at a lower end.

Martinez fails to disclose the second strap (23) also having a length adjustment means. Martinez does, however, teach that the length adjustment means is provided on the first strap in order to adjust the strap to meet a user's needs (col. 2 lines 61-63). It would have been obvious to one having ordinary skill in the art at the time the invention was made to also include a length adjustment means on the second strap of the gun sling so that a user could also adjust that strap to suit their individual needs. For

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instance, an obese person may need a much longer second strap than a skinny person, whereas the same skinny person may not want a strap as long as would be required by an obese person. Therefore, making the strap adjustable would allow for production of one model of the gun sling to fit individuals of all sizes. Examiner notes that Martinez seems to have been concerned with this problem as he included numerous attachment points (25) for the second strap.

Regarding claim 2, Martinez discloses a padded portion on the first strap (Figure 4), but not the second strap. Examiner takes Office Notice to the fact that it is old and well known in the art to provide padding on both shoulder straps when two shoulder straps are provided. Support for this assertion can be found in the prior art made of record but not relied upon in this Office action. In view of this assertion and also Martinez's own teaching, it would have been obvious to one having ordinary skill in the art at the time the invention was made to also provide padding on the second shoulder strap so that both straps, not just one, were more comfortable when worn about a user's shoulders.

Regarding claim 3, Martinez discloses the claimed invention except for the attachment means being located on the padding. It would have been obvious to one having ordinary skill in the art at the time the invention was made to relocate the attachment means (25) from a lower portion of the first strap (14) to the padding, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70. Moving the attachment means to the padding would not take away from the sling's original function as the second strap could still form a neck-

encircling loop of selective shape and reach in order to retain the first strap on the user's shoulder.

8. Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mayers (US 6,168,060 B1) in view of Bell et al. (US 5,615,811 A) and Rosenfield (US 5,810,219 A), and further in view of Gomez et al. as applied to claim 12 above.

Regarding claims 8-10, Mayers discloses a dual-position golf bag sling comprising a first sling (12) and a second sling (14), each sling having thereon a portion of an attachment means (snaps 26) for attaching the two sling portions together, but fails to disclose the golf bag sling being used to support a gun, fails to specifically recite the slings have padded upper portions, although they appear to, and also fails to disclose a Y-strap for connecting said first and second slings to the lower end of the sling-supported object.

Regarding the sling being used to support a gun, Bell et al. teaches that is it old and well known in the art for a shoulder sling to be used to support either a gun or a golf bag (col. 1 lines 5-10). Regarding the padding, Bell et al. teaches that padding (28) is applied to the shoulder area of the sling in order to make the sling more comfortable to wear. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the sling of Mayers to support a gun and to include padding on the sling portions, as taught by Bell et al., in order to comfortably support a gun over a user's shoulder(s).

Regarding the modified Mayers sling including means for attaching the sling portions to the upper and lower gun swivels of a gun, Rosenfield teaches that when

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connecting a sling to gun swivels, a sling swivel member (14) may be used. It would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the upper attachment means (24) and lower attachment means (34) of the modified Mayers sling with a sling swivel such as that taught by Rosenfield, in order to make the sling capable of supporting a gun by its upper and lower gun swivel members.

Regarding the Y-strap, Examiner is of the position that Mayers and Gomez et al. teach two art-equivalent ways of attaching two sling members to the object being supported by the sling. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to connect the two gun sling portions (12,14) of the modified Mayers gun sling to the lower gun swivel using a Y-strap, as taught by Gomez et al., since the Y-strap is a known means for connecting two sling members to a sling-supported object.

Regarding claim 11, Mayers teaches a single triangular plate (25) having two slots thereon for receiving the upper ends of the two sling portions.

Regarding claims 1-7, the modified Mayers gun sling as applied to claims 8-10 and 11 satisfies the limitations of the claims.

### ***Specification***

9. The abstract of the disclosure is objected to because it contains the legal phraseology "means". Correction is required. See MPEP § 608.01(b).



***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin M. Larson whose telephone number is (571) 272-8649. The examiner can normally be reached on Monday - Thursday, 7am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JML  
9/15/06

  
NATHAN J. NEWHOUSE  
SUPERVISORY PATENT EXAMINER